

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5658 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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Versus

A'BAD URBAN DEVL P. AUTHORITY

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Appearance:

None present for Petitioner

MR PS PATEL for Respondent

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 15/10/96

ORAL JUDGMENT

Heard learned counsel for the respondent and perused the Special Civil Application. The petitioner, as per his case, is the owner of the property situated at Odhav Nagar Panchayat bearing Survey Nos.505, 506 and 507/2/3, being T.P. Scheme No.2. The petitioner is a society and it had constructed two storied buildings on the above land. On the ground floor of the building, there are 11 shops which have been given on rental basis

to the tenants. The second floor is stated to be occupied by the Government recognised primary school. It is case of the petitioner in the Special Civil Application that there is no encroachment or any disturbance or hindrance to vehicular traffic and the said building is situated about 80 ft. away from the centre of the road. The respondent herein, the Ahmedabad Urban Development Authority, under one or other pretext wants to pull down the construction made by the petitioner-society which gave rise to filing of this petition. The prayer made by the petitioner in Special Civil Application is that the respondent be restrained from demolishing the superstructure of the petitioner-society situated at the aforesaid survey numbers at Odhav being T.P. Scheme No.2.

2. Interim relief has been granted by this Court which continues till this date. The learned counsel for the respondent, Shri P.S. Patel submitted that the area in which the land of the society is situated is no more under the control of respondent No.1. This area has gone under the control of Ahmedabad Municipal Corporation and in view of this fact, Shri Patel stated that nothing can be done by the respondent and the apprehension which the petitioner has made in this Special Civil Application now no more survives.

3. In view of the statement made by Shri Patel, I do accept that whatever apprehension which the petitioner had and which has given cause to it to file the Special Civil Application now does not survive and this Special Civil Application has become infructuous. Order accordingly. The Special Civil Application is dismissed as having become infructuous. Rule discharged. No order as to costs.

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(sunil)